

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

HENRY L. LESTER,	:	
	:	
Plaintiff,	:	Case No.: 5:09-CV-412 (CAR)
	:	
v.	:	
	:	
ALEXIS E. L. CHASE et al,	:	42 U.S.C. § 1983
	:	
Defendants.	:	
	:	

***ORDER ON THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE***

Before the Court is the United States Magistrate Judge's Recommendation [Doc. 35] to grant Defendants' Motion to Dismiss [Doc. 12]. Plaintiff has entered an objection to the Recommendation [Doc. 37], which largely recasts his original claims. Specifically, Plaintiff takes issue with Defendant Burnside's prescribed course of treatment, which Plaintiff claims has failed to alleviate his chronic pain and is at odds with his prior doctors' recommendations, as indicated in two medical documents that are respectively almost four and seven years old.

As in his earlier three suits over various aspects of his prescribed course of medical treatment while incarcerated, Plaintiff fails to state a medical indifference claim. See Taylor v. Adams, 221 F.3d 1254, 1258 (11th Cir. 2000) ("[M]erely accidental inadequacy, negligence in diagnosis or treatment, or even medical malpractice" are not actionable under the Eighth Amendment.). An inmate has no constitutional right to a preferred course of treatment. Hamm v. DeKalb County, 774 F.2d 1567, 1576 (11th Cir. 1985). Plaintiff admits he has received medical care in prison but believes he knows better than his present doctor how to treat his condition based on the years-old conclusions of two former doctors. Even if Plaintiff's claims were true, he has provided the Court

no constitutional basis for second-guessing the “exercise of professional judgment” by different doctors at different times. See Estelle v. Gamble, 429 U.S. 97, 105 (1976).

Having thus considered the Objection and upon de novo review of the Recommendation and entire record, the Court agrees with the findings and conclusions of the United States Magistrate Judge that Plaintiff's Complaint fails to state a claim upon which relief can be granted. The Recommendation is therefore **ADOPTED** and **MADE THE ORDER OF THE COURT**. Defendants' Motion to Dismiss is hereby **GRANTED**. Plaintiff's Motion for Preliminary Injunction [Doc. 7] is **DENIED** as **MOOT**.

SO ORDERED, this 12th day of August, 2010.

S/ C. Ashley Royal
C. ASHLEY ROYAL, JUDGE
UNITED STATES DISTRICT COURT

THC